

§ 301.85-7

§ 301.85-7 Attachment and disposition of certificates and permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.85-8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and golden nematodes as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754) in accordance with instructions issued by the Deputy Administrator.

[37 FR 24330, Nov. 16, 1972, as amended at 66 FR 21052, Apr. 27, 2001]

§ 301.85-9 Movement of live golden nematodes.

Regulations requiring a permit for and otherwise governing the movement of live golden nematodes in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.85-10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

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Subpart—Pale Cyst Nematode

SOURCE: 72 FR 51984, Sept. 12, 2007, unless otherwise noted.

§ 301.86 Restrictions on interstate movement of regulated articles.

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart.¹

§ 301.86-1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture.

Associated field. A field that has been found to be at risk for infestation with pale cyst nematode in accordance with § 301.86-3(c)(2).

Certificate. A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of pale cyst nematode and may be moved interstate to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with this subpart.

Departmental permit. A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes and that the regulated article is eligible for interstate movement in accordance with § 301.86-4.

Field. A defined production site that is managed separately from surrounding areas for phytosanitary purposes.

¹Any properly identified inspector is authorized to stop and inspect persons and means of conveyance and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 414 of the Plant Protection Act (7 U.S.C. 7714).

Infestation (infested). The presence of the pale cyst nematode or the existence of circumstances that makes it reasonable to believe that the pale cyst nematode is present.

Infested field. A field that has been found to be infested with pale cyst nematode in accordance with § 301.86-3(c)(1).

Inspector. Any employee of APHIS or other person authorized by the Administrator to perform the duties required under this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector or person operating under a compliance agreement affirms that the regulated article identified on the document is eligible for interstate movement in accordance with § 301.86-5(b) only to a specified destination and only in accordance with specified conditions.

Moved (move, movement). Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Nursery stock. Living plants and plant parts intended to be planted, to remain planted, or to be replanted.

Pale cyst nematode. The pale cyst nematode (*Globodera pallida*), in any stage of development.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

Plant Protection and Quarantine. The Plant Protection and Quarantine program of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

Quarantined area. Any State or portion of a State designated as a quarantined area in accordance with the provisions in § 301.86-3.

Regulated article. Any article listed in § 301.86-2 or otherwise designated as a regulated article in accordance with § 301.86-2(i).

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

[72 FR 51984, Sept. 12, 2007, as amended at FR 19381, Apr. 29, 2009]

§ 301.86-2 Regulated articles.

The following are regulated articles:

- (a) Pale cyst nematodes.²
- (b) The following pale cyst nematode host crops:

Eggplant (*Solanum melongena* L.)

Pepper (*Capsicum* spp.)

Potato (*Solanum tuberosum* L.)

Tomatillo (*Physalis philadelphica*)

Tomato (*Lycopersicon esculentum* L.)

- (c) Root crops.

(d) Garden and dry beans (*Phaseolus* spp.) and peas (*Pisum* spp.).

- (e) All nursery stock.

(f) Soil, compost, humus, muck, peat, and manure, and products on or in which soil is commonly found, including grass sod and plant litter.

- (g) Hay, straw, and fodder.

(h) Any equipment or conveyance used in an infested or associated field that can carry soil if moved out of the field.

(i) Any other product, article, or means of conveyance not listed in paragraphs (a) through (h) of this section that an inspector determines presents a risk of spreading the pale cyst nematode, after the inspector provides written notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

[72 FR 51984, Sept. 12, 2007, as amended at 74 FR 19381, Apr. 29, 2009]

§ 301.86-3 Quarantined areas.

(a) *Designation of quarantined areas.* In accordance with the criteria listed in paragraph (c) of this section, the Administrator will designate as a quarantined area each field that has been found to be infested with pale cyst nematode, each field that has been found to be associated with an infested field, and any area that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from infested or associated fields. The Administrator will publish the description of the quarantined area on the Plant Protection and Quarantine Web site, <http://www.aphis.usda.gov/>

²Permit and other requirements for the interstate movement of pale cyst nematodes are contained in part 330 of this chapter.